

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine Matejcek	Team: Squad #7	CCRB Case #: 201706569	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/21/2017 1:30 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 1/21/2019	EO SOL 1/21/2019	
Date/Time CV Reported Tue, 08/08/2017 5:11 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 08/08/2017 5:11 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Leon Pedigo	18445	944883	PSA 2
2. POM Ikeem Jackson	17398	954965	PSA 2
3. SGT Richard Aseng	1407	940931	PSA 2
4. POM Griffin Rosen	31291	954298	PSA 2
5. POM Luis Fernandez	22932	953854	PSA 2
6. An officer			PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.POM Leon Pedigo	Abuse: Police Officer Leon Pedigo stopped § 87(2)(b) and individuals.	§ 87(2)(b)
B.POM Ikeem Jackson	Abuse: Police Officer Ikeem Jackson stopped § 87(2)(b) and individuals.	§ 87(2)(b)
C.SGT Richard Aseng	Abuse: Sergeant Richard Aseng stopped individuals.	§ 87(2)(b)
D.POM Griffin Rosen	Abuse: Police Officer Griffin Rosen stopped individuals.	§ 87(2)(b)
E.POM Luis Fernandez	Abuse: Police Officer Luis Fernandez stopped individuals.	§ 87(2)(b)
F.POM Leon Pedigo	Abuse: Police Officer Leon Pedigo frisked § 87(2)(b) and individuals.	§ 87(2)(b)
G.POM Ikeem Jackson	Abuse: Police Officer Ikeem Jackson frisked § 87(2)(b) and individuals.	§ 87(2)(b)
H.SGT Richard Aseng	Abuse: Sergeant Richard Aseng frisked individuals.	§ 87(2)(b)
I.POM Griffin Rosen	Abuse: Police Officer Griffin Rosen frisked individuals.	§ 87(2)(b)
J.POM Luis Fernandez	Abuse: Police Officer Luis Fernandez frisked individuals.	§ 87(2)(b)
K. An officer	Abuse: An officer searched an individual.	§ 87(2)(b)
L. An officer	Abuse: An officer frisked an individual.	§ 87(2)(b)
M.POM Leon Pedigo	Abuse: Police Officer Leon Pedigo interfered with § 87(2)(b) use of a recording device.	§ 87(2)(b)
N.POM Leon Pedigo	Discourtesy: Police Officer Leon Pedigo acted discourteously toward § 87(2)(b)	§ 87(2)(b)
O.POM Leon Pedigo	Abuse: Police Officer Leon Pedigo interfered with § 87(2)(b) use of a recording device.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
P.POM Leon Pedigo	Abuse: Police Officer Leon Pedigo refused to provide his name and shield number to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On August 8, 2017, § 87(2)(b) filed this complaint via phone with the CCRB.

At approximately 1:30 a.m. on July 21, 2017, § 87(2)(b) and his friends were gathered in front of § 87(2)(b) in Brooklyn when they were allegedly stopped and frisked by PO Leon Pedigo, PO Ikeem Jackson, Sgt. Richard Aseng, PO Griffin Rosen, and PO Luis Fernandez of Police Service Area 2 (PSA2) (**Allegations A-J: Abuse of Authority**, § 87(2)(g)). Sgt. Aseng, PO Rosen, and PO Fernandez separated one of § 87(2)(b) friends from the rest of the group and frisked and searched him § 87(2)(b) (**Allegations K and L: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) attempted to record the frisk on his cell phone, but PO Pedigo interfered with his use of a recording device by slapping the phone out of his hands (**Allegation M: Abuse of Authority**, § 87(2)(g); **Allegation N: Discourtesy**, § 87(2)(g)). § 87(2)(b) stepped several feet back and continued to record, but PO Pedigo interfered with his use of a recording device a second time (**Allegation O: Abuse of Authority**, § 87(2)(g)). PO Pedigo refused to provide his name to § 87(2)(b) (**Allegation P: Abuse of Authority**, § 87(2)(g)). § 87(4-b) § 87(2)(g)

There were no arrests made or summonses issued as a result of this incident.

Three cell phone recordings of this incident were sent to the CCRB by § 87(2)(b). The original videos are linked to Board Review 18, 19, and 20. Board Review 18 and 19 were recorded by § 87(2)(b) while Board Review 20 was recorded by an unidentified victim.

Allegation A – Abuse of Authority: Police Officer Leon Pedigo stopped § 87(2)(b) and individuals.

Allegation B – Abuse of Authority: Police Officer Ikeem Jackson stopped § 87(2)(b) and individuals.

Allegation C – Abuse of Authority: Sergeant Richard Aseng stopped individuals.

Allegation D – Abuse of Authority: Police Officer Griffin Rosen stopped individuals.

Allegation E – Abuse of Authority: Police Officer Luis Fernandez stopped individuals.

Allegation F – Abuse of Authority: Police Officer Leon Pedigo frisked § 87(2)(b) and individuals.

Allegation G – Abuse of Authority: Police Officer Ikeem Jackson frisked § 87(2)(b) and individuals.

Allegation H – Abuse of Authority: Sergeant Richard Aseng frisked individuals.

Allegation I – Abuse of Authority: Police Officer Griffin Rosen frisked individuals.

Allegation J – Abuse of Authority: Police Officer Luis Fernandez frisked individuals.

Allegation K – Abuse of Authority: An officer searched § 87(2)(b)

Allegation L – Abuse of Authority: An officer frisked § 87(2)(b)

§ 87(2)(b) testified that he and four or five of his friends had been sitting and talking outside his building for one or two hours when they were approached by the police. They were not drinking or using drugs at the time. PO Pedigo and PO Jackson approached the group on foot at the same time that Sgt. Aseng, PO Rosen, and PO Fernandez pulled up in their vehicle. PO Pedigo and PO Jackson allegedly frisked § 87(2)(b) waistband, front and back pants pockets, and crotch area, then frisked two of his friends in the same manner. Sgt. Aseng, PO Rosen, and

PO Fernandez approached the group and allegedly frisked the three remaining individuals. § 87(2)(b)

(b), §

87(2)(b)

(f)

Video linked to Board Review 01 shows at least one officer frisking § 87(2)(b) as described by § 87(2)(b) (The original video linked to Board Review 20 is of higher quality, and the frisk can be seen at the 0:30 second mark of that video.) Although no other frisks were captured by the video, § 87(2)(b) can be heard stating “He lucky we let him touch our pockets, he can’t do that” at the 0:54 minute mark of video linked to Board Review 19. The videos do not capture any conversation about the reported marijuana or alcohol bottles.



IA 85, 7s.mp4

§ 87(2)(b) stated that his friends did not want to participate in the investigation and was unwilling to provide their contact information. No Stop, Question, and Frisk reports or other documents noting the identities of the other individuals of the group were prepared by the officers involved, and thus, they remain unidentified. Consequently, § 87(2)(b) was the only victim who provided a statement in connection with this case [Board Review 05, 06].

PO Pedigo testified that he and PO Jackson were on patrol in their vehicle when they observed a group of approximately eight males gathered in front of § 87(2)(b). From the street, which was approximately 150 feet away, PO Pedigo saw what appeared to be several clear glass alcohol bottles under the benches where the group was sitting. The bottles appeared to have liquid missing from them, although PO Pedigo could not tell whether they were open. Based on the large size of the bottles and the fact that they were glass, PO Pedigo suspected that they contained alcohol. Based on this factor alone, PO Pedigo and PO Jackson decided to park their vehicle and approach the group. Before doing so, PO Jackson contacted Sgt. Aseng and his partners and requested their assistance due to the size of the group. PO Pedigo and PO Jackson then exited their vehicle, entered § 87(2)(b) and walked through the lobby to the front doorway that the group was gathered near. Immediately after exiting the building, PO Pedigo noticed a strong odor of marijuana emanating from the group. However, he did not see anyone smoking at the time. Simultaneously, Sgt. Aseng, PO Rosen, and PO Fernandez approached the group. The officers informed the group that they could not drink in public, and members of the group told them that they were grieving a recent death in their family. The group cursed, raised their voices, and accused the officers of harassment. This behavior, in combination with the fact that some of the males smelled like alcohol, led PO Pedigo to suspect that some members of the group were intoxicated. PO Pedigo stated that he never noticed any bulges on any of the males, never personally suspected that any of them were armed, and never learned whether any officer held this suspicion. PO Pedigo stated that he did not frisk anyone on scene and did not see any other officer frisk anyone. He never learned after the fact that any frisks were conducted [Board Review 07].

§ 87(2)(g) PO Jackson testified that, from the street, he noticed smoke emanating from one of the individuals in the group. From the street, PO Jackson observed that this individual was holding whatever they were smoking between his index finger and his thumb, just as one would typically hold a marijuana cigarette. PO Jackson did not smell marijuana and did not have any suspicion that members of the group were drinking. Aside from the possibility that someone was smoking marijuana, there were no other factors contributing to PO Jackson's decision to approach the group. PO Jackson testified that PO Pedigo was the one who contacted Sgt. Aseng and his partners to request assistance. PO Jackson testified that, once he approached the group on foot, he noticed that there were two open bottles of Hennessey on the ground. One of the males was holding a cup. PO Jackson also noticed a strong smell of marijuana, although he no longer saw any smoke and did not see anyone holding a marijuana cigarette. To PO Jackson's knowledge, none of the officers on scene took any steps to determine whether anyone in the group had been smoking marijuana. PO Jackson testified that, once the group became frustrated with the officers, he recognized § 87(2)(b) as a former classmate. PO Jackson walked § 87(2)(b) 10 feet from the rest of the group and asked him what was happening, at which point he learned that § 87(2)(b) aunt had just died. As PO Jackson spoke to § 87(2)(b) he overheard other officers arguing with civilians behind him. However, PO Jackson was facing away from the group and did not see anything that the other officers were doing. Like PO Pedigo, PO Jackson denied frisking anyone on scene. He did not see whether any other officer did so, and never learned that this had occurred after the fact [Board Review 08].

Sgt. Aseng became aware of this incident when either PO Pedigo or PO Jackson went over point-to-point radio to request his assistance with a stop they were about to conduct for public drinking at § 87(2)(b). Sgt. Aseng stated that this request for assistance was the only factor leading to his decision to approach the group. Upon approach, he noticed that that three or four males in the group were drinking directly from alcohol bottles. He could not describe the bottles. Sgt. Aseng did not recall smelling marijuana or suspecting that anyone was smoking marijuana during this incident. Sgt. Aseng testified that he and his partners approached the group at the same time as PO Pedigo and PO Jackson. The officers spread out and spoke with different members of the group, informing them that it was not legal to drink in public. As Sgt. Aseng was speaking with a member of the group, PO Rosen and PO Fernandez called him over to speak with § 87(2)(b) who they had separated from the rest of the group. When Sgt. Aseng approached, he noticed that the individual's hands were in his pockets, and that he was refusing to take his hands out when the officers asked him. § 87(2)(b), § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) He was not frisked for any other reason. Sgt. Aseng testified that he never saw any bulges on anyone else in the group, never suspected that anyone but § 87(2)(b) was armed, and never observed or learned that anyone else in the group had been frisked [Board Review 09].

§ 87(2)(g)

PO

Rosen testified that, upon his initial approach, he noticed several open glass liquor bottles under the benches where the group was gathered. He also noticed a strong odor of burnt marijuana. PO Rosen testified that he and PO Fernandez spoke with one individual while the other officers spoke with the rest of the group. § 87(2)(b), § 87(2)(f)

Like Sgt. Aseng, PO Rosen stated he never suspected that any other civilian on scene was armed. He did not see any other officer on scene frisk anyone else, and stated that he did not believe that he frisked anyone aside from § 87(2)(b) [Board Review 10].

PO Fernandez's testimony was consistent with PO Rosen's, except for the fact that PO Fernandez did not recall whether he and his partners frisked § 87(2)(b).

§ 87(2)(b), § 87(2)(f)

denied that any other members of the crowd were frisked during this incident [Board Review 11].

PO Pedigo's memo book referenced "open container" as the cause of the stop, whereas PO Rosen noted "drinking" and PO Fernandez listed "drinking and smoking" in his memo book [Board Review 21]. No summons or arrests resulted from this incident and no evidence was vouchered.

When a uniformed member of the service responds to or becomes aware of an incident with the potential for a confrontation involving an off duty member of the service authorized to carry a weapon, they must determine if the individual has a weapon and request to see their NYPD identification card or other official law enforcement identification. Patrol Guide, Procedure 212-36 [Board Review 12].

§ 87(2)(g)

§ 87(2)(g), § 87(2)(b), § 87(2)(f)

§ 87(2)(g), § 87(2)(b), § 87(2)(f)

Allegation M – Abuse of Authority: Police Officer Leon Pedigo interfered with § 87(2)(b) use of a recording device.

Allegation N – Discourtesy: Police Officer Leon Pedigo acted discourteously toward § 87(2)(b)

Allegation O – Abuse of Authority: Police Officer Leon Pedigo interfered with § 87(2)(b) use of a recording device.

§ 87(2)(b) testified that he took out his cell phone to record the police interaction with the off-duty officer. Due to the poor lighting conditions in the area, § 87(2)(b) utilized the flash on his cell phone to illuminate the interaction so that the video recording would capture the officers' actions. Shortly after he began recording, PO Pedigo stepped in front of his camera and told him to turn off the flash on his phone. PO Pedigo repeated this command a second time while stepping toward § 87(2)(b). He then slapped the phone out of § 87(2)(b) hand, causing it to fall to the ground. § 87(2)(b) picked up his phone, moved at least 10 feet away, and began recording again. PO Pedigo walked towards him and said "Get that light out of my face." § 87(2)(b) continued to record, as did one of his friends [Board Review 05].



IA 26, 3m 42s.mov

VIDEO 1 (taken from original Board Review 20)
Filmed by § 87(2)(b) friend



IA 86, 7s.mp4

VIDEO 2 (taken from original Board Review 18)
Filmed by § 87(2)(b) Physical Interference

Two relevant cell phone videos embedded above captured overlapping portions of this incident [Also see original videos in Board Review 20, 18]. Cell phone video recorded by § 87(2)(b) friend shows PO Pedigo interfering with § 87(2)(b) use of a recording device [Video 1 embedded above, 1:47 – 2:00]. After three officers begin to frisk the off-duty police officer, § 87(2)(b) who can be seen in the black backwards baseball hat, begins recording with flash at 0:37 in Video 1, as evidenced by the sudden illumination of PO Pedigo's grey shirt. At first, PO Pedigo does not say anything and continues to pace back and forth. At 0:53, PO Pedigo tells § 87(2)(b) to turn off the flash. PO Pedigo's physical interference with § 87(2)(b) use of a recording device is not captured on this recording as the men are standing off camera [Video 1; 0:55 – 1:05]. However, § 87(2)(b) own recording of this same point in the incident shows that PO Pedigo made contact with § 87(2)(b) cell phone less than two seconds after first instructing him to turn off the flash, ultimately causing the recording to stop [Video 2].

Following the physical interference with § 87(2)(b) video recording, as depicted in Video 2, § 87(2)(b) steps several feet away from PO Pedigo and begins to record with flash again [Video 1; 1:48]. PO Pedigo immediately tells § 87(2)(b) to "Turn off the flash," and at 1:53, states, "You're blinding me" while walking towards § 87(2)(b). PO Pedigo continues to walk towards § 87(2)(b) and away from the police interaction, causing § 87(2)(b) to also step backward. At 1:58, PO Pedigo reaches forward and appears to attempt to grab § 87(2)(b) phone. § 87(2)(b) moves the phone away, says "Back up from me please, man," and steps

away from PO Pedigo with the flash still on. This time, PO Pedigo and PO Jackson, who is seen in the maroon shirt accompanying PO Pedigo, do not pursue him.

While PO Pedigo approaches § 87(2)(b) § 87(2)(b) friends protest PO Pedigo's conduct, repeatedly stating "The flash is obviously not in his eyes" [Video 1, 2:05]. At 2:12, § 87(2)(b) friend says "He's making the flash go in his eyes; he's walking towards § 87(2)(b) § 87(2)(b) continues to record with flash (2:28), and his friend continues to record without flash. At 2:33, § 87(2)(b) friend says "I don't got no flash on, don't attack me." PO Pedigo responds "Thank you for that, this way I can see." Aside from the successful physical contact and attempted physical contact involving § 87(2)(b) described above, the videos did not depict PO Pedigo interfering with others' use of a recording device [Board Review 18, 20, 19].

PO Pedigo testified that § 87(2)(b), § 87(2)(f) § 87(2)(b) walked toward the police interaction while shouting. The fact that § 87(2)(b) was shouting while walking towards the officers presented a safety concern for PO Pedigo, so he stepped between § 87(2)(b) and the officers. As soon as PO Pedigo positioned himself there, § 87(2)(b) took out his cell phone in an apparent effort to record what was happening to the § 87(2)(b). The flash on his camera was on. PO Pedigo was standing within three feet of § 87(2)(b) at the time, so the light blinded him. PO Pedigo stated that he told him to turn the flash off several times, but § 87(2)(b) did not respond or turn off the flash. In response, PO Pedigo swept his arm towards § 87(2)(b) phone to move the flash away from his eyes. His hand made contact with § 87(2)(b) phone, but he did not recall whether the phone stayed in § 87(2)(b) hands or fell to the ground. At that point, PO Jackson approached § 87(2)(b) and separated him from PO Pedigo. According to PO Pedigo, § 87(2)(b) use of a recording device did not present any additional issues [Board Review 07].

PO Pedigo viewed the clip linked to Board Review 02 and stated that this was the interaction that he had described during the interview. After that, he reviewed the video linked to Board Review 20. PO Pedigo amended his initial testimony that § 87(2)(b) recording did not present additional issues after PO Pedigo initially swept his arm towards § 87(2)(b) phone, as the video in Board Review 20 reminded him that § 87(2)(b) use of a recording device with flash continued to present issues later in the incident. PO Pedigo acknowledged that § 87(2)(b) was several feet away from him as he was filming with flash, but stated that the flash from the phone still blinded him [Video 1; beginning at 1:48]. Aside from the flash, PO Pedigo did not have any issue with the fact that § 87(2)(b) was recording, and § 87(2)(b) actions did not present any additional safety concern at the time. The sole issue was that the light from his phone was blinding PO Pedigo.

Individuals have a right to lawfully record police activity. Recognizing the affirmative right to record police action, under no circumstances should a member of service threaten, intimidate, or otherwise discourage an observer from recording the police officer's activities assuming the observer is at a safe distance. The "zone of safety" is established by the officer and should be established on a case-by-case basis. This zone of safety should only encompass the physical space necessary to safely perform police operations. Legal Bureau Bulletin, Vol. 26, No. 2 [Board Review 23]. An onlooker taking video recordings does not constitute probable cause for an arrest or detention unless the safety of other officers or other persons is directly endangered or an

officer reasonably believes they are endangered. Patrol Guide, Procedure 208-03 [Board Review 24]. Officers must be courteous and respectful when interacting with the public. Patrol Guide, Procedure 203-09 [Board Review 25].

It is undisputed that PO Pedigo interfered with § 87(2)(b) use of a recording device on two separate occasions, first when he told § 87(2)(b) to turn off the flash and made contact with the phone to stop the recording [Video 2: Allegations M and N] and second when he tried to grab the phone when § 87(2)(b) continued to record [Video 1; 1:58: Allegation O].

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation P – Abuse of Authority: Police Officer Leon Pedigo refused to provide his name to § 87(2)(b)

§ 87(2)(b) testified that, shortly after PO Pedigo attempted to stop him from recording the second time, he asked PO Pedigo for his name. PO Pedigo ignored his request and did not provide his name at any point during this incident [Board Review 05].

Video linked to Board Review 04 shows § 87(2)(b) and PO Pedigo engaged in conversation. PO Pedigo appears to be a short distance from § 87(2)(b). § 87(2)(b) asks “What is your name, sir?” to which PO Pedigo responds “Turn your flash out of my eyes.” The original video continues for another minute and 26 seconds, and PO Pedigo does not provide his name at any point on the recording [Board Review 19].



IA 88, 11s.mp4

PO Pedigo testified that he did not recall hearing anyone request his name during this incident. He did not recall whether he provided his name to anyone. After reviewing the video, PO Pedigo stated that he did not hear § 87(2)(b) request for his name. PO Pedigo did not recall whether he ever provided his name, but stated that this was because he never heard the request. He testified the other civilians in the group were shouting at the time the request was made and that his head was turned away from § 87(2)(b) at the time, which made it difficult for him to hear what was asked of him [Board Review 07].

PO Jackson was the only other officer in the vicinity at the time. He did not recall whether PO Pedigo provided his name to § 87(2)(b) at any point during this incident [Board Review 08].

An officer must courteously and clearly state their name, rank, shield number, and command to anyone who requests it, and provide them ample time to record the information. Patrol Guide, Procedure 203-09 [Board Review 14].

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint
- As of December 5, 2017, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint [Board Review 15].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [Board Review 17].
- PO Pedigo has been a member of service for ten years and has been a subject in four CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- PO Jackson has been a member of service for four years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Aseng has been a member of service for 12 years and has been a subject in five CCRB complaints and eight allegations, one of which was substantiated.
 - 201200818 involved a substantiated allegation of a frisk against Sgt. Aseng. The Board recommended Charges and after an APU trial, he faced no penalty.
 - § 87(2)(g)
- PO Fernandez has been a member of service for five years and has been the subject in five CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)
- PO Rosen has been a member of service for five years and this is the first CCRB complaint to which he has been a subject.

Squad No.: 7

Investigator:	_____	<u>Inv. Katherine Matejcak</u>	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	<u>IM Diana Townsend</u>	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date